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8 IN THE UNITED STATES DISTRICT COURT
9 FOR THE DISTRICT OF ARIZONA

10 United States of America,
11 Plaintiff,
12 vs.
13 Brien Jesus Hernandez,
14 Defendant.

23-CR-00320-TUC-JAS
SENTENCING MEMORANDUM

15 The United States of America, by and through its undersigned attorneys, hereby
16 submits the following sentencing memorandum.

17 On August 22, 2023, the defendant pled guilty to Count 1 in the indictment charging
18 the defendant with dealing firearms without a license. The government has reviewed the
19 Presentence Report (PSR) and has no objection to the total offense level calculation of 21
20 and the defendant's placement in Criminal History Category I. The resulting sentencing
21 range is 37 to 46 months.

22 In aggravation, the defendant's offense involved numerous firearms including fully
23 automatic weapons. (PSR ¶¶ 6-7.) He was also selling "auto sears" which allow semi-
24 automatic firearms to function as fully automatic weapons. (PSR ¶ 10-11.) He was also
25 involved in selling small amounts of controlled substances. (PSR ¶ 9.)

26 In mitigation, the defendant is 25-years-old and has no prior criminal history. (PSR
27 ¶¶ 29-35.) After some initial difficulties, he has performed well on pretrial release. (PSR
28 ¶ 4.) Having reviewed the findings and recommendations contained in the PSR, the

1 government requests a sentence of 37 months followed by three years of supervised release.
2 This sentence would constitute sufficient deterrence and be consistent with the application
3 of the other sentencing factors set forth in 18 U.S.C. Section 3553(a).

4 Respectfully submitted this 18th day of January, 2024.

5 GARY M. RESTAINO

6 United States Attorney

7 District of Arizona

8 */s Craig H. Russell*

9 Craig H. Russell

10 Assistant U.S. Attorney

11 Copy of the foregoing served electronically or by
12 other means this 18th day of January, 2024, to:

13 ALL ECF Participants
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